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THE
PRINCIPLES
OF
GOVERNMENT,
IN
A Dialogue,
BETWEEN
A Gentleman & a Farmer.

BY THE LATE SIR WILLIAM JONES.

O sacred LIBERTY!
Wing'd from the summer's snare, from flattering ruin,
Like the bold Stork, you seek the wintry shore,
Leave courts and pomps and palaces to slaves,
Cleave to the cold and rest upon the storm.

GUSTAVUS VASA.

Re-published, with Notes and Historical Elucidations,
BY T. S. NORGATE.

"Tout honnête-homme doit avouer les livres qu'il public."—*Rousseau.*

THE SECOND EDITION, MUCH ENLARGED.

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P R E F A C E

To the First Edition.



I AM led to the republication of this excellent little tract, by a remarkable expression from Mr. Fox in the House of Commons, during a debate on Monday, November 23, 1795, as reported in the Morning Chronicle, respecting the various petitions for and against the Sedition Bills then pending in parliament. This expression was, that "if Ministers should be so resolute on their spirit of destruction, as by means of the corrupt influence which they possessed in the two houses, to pass these bills in violent opposition to the declared sense of the people, and they were put in force, and became a practical part of the government, he was ready to avow in the ancient language of the Constitution and in the principles of the Revolution, that however he might go into solitude to suffer his new condition with patience, if his opinion

were asked by the people as to their obedience, he should say that it was no longer a question of morality and duty, but of prudence. It would be a case of extremity which would justify resistance, and the only question would be, whether that resistance was prudent."

This bold and unabashed acknowledgment of the people's right to resist oppression, thundered through the house, and was followed by a flash of very animated eloquence on the part of Mr. Pitt,

But 'twas specious all,
Flash without fire, the lightning of a cloud
That carries darkness in the rear;

for Mr. Fox very coolly rose after the storm had subsided, not to recant, but to repeat his words. The Chancellor of the Exchequer sat down and was silent; but the Secretary at War, fermenting with loyalty, burst forth in a paroxysm of intemperance and rage, not very congenial perhaps to the dignified character of a Statesman and Philosopher!—and after having thanked the Honourable Gentleman for being explicit on the subject, returned the compliment, and with equal frankness unfolded his own intention and that of his coadjutors: "TO EXERT THEMSELVES

WITH

WITH VIGOR MORE THAN LAW." Vide Morn.
Chron. Nov. 23, 1795.

I do not know whether any of my readers have observed it or not, but there seems to be a kind of morbid luxuriance in the imagination of Mr. Windham, which he cannot keep within any tolerable bounds; and he appears to be affected with a diction so outrageously exuberant, that he loses all choice of expression; talks wildly to-day and weakly to-morrow. Indeed he is so remarkably unfortunate, that several of his aphorisms have appeared in judgment against him on many public occasions. For my own part, I cannot help feeling a propensity towards pity, on the reflection that they must sometimes also intrude even on his solitary hours; sometimes invade the peacefulness even of his midnight meditations; rise like the ghosts of those that Richard murdered, molest his dreams in horrible succession, and with them exclaim

Let me sit heavy on thy soul to-morrow!

It must be acknowledged, however, that Mr. Windham's ingenuity is equally remarkable in the evasion of any unpleasant consequence into which his intemperance is likely to betray him, by some acute and timely explanation. He was
very

successful on the present occasion; and on a cry from the opposition side of the house to take down his words, nobly scorning to follow an example which his political antagonists had set, instead of coming forward with a repetition of the sentiment, with equal sagacity and shrewdness he *explained* that it was only the intention of ministers “to exert themselves with vigor more than law—required in ordinary times.”

So much for parliament, I could almost find it in my heart to say,

Fie on't; O fie; 'tis an unweeded garden
That grows to seed; things rank and gross in nature
Possess it merely—

The following dialogue between a Gentleman and a Farmer, is the production of one of the greatest men that ever adorned a country or an age; equally illustrious in every walk of literature and language. It is intended as an exposition of some of those principles of government, which in themselves are simple and easily comprehended; and it has the additional object in view, of bringing into open day, that primæval but that latent right, which in all ages has been so sedulously obscured by political dictators, but which no power on earth can abrogate
—the

—the right of arming in self-defence, and in resistance to oppression from whatever quarter it dares come, whether King, Lords, or Commons.

This sentence is not dictated by a warm and transitory enthusiasm; it is the offspring of deliberation and of thought; for the ardent ebullitions of a soul in love with liberty, may now I fear, no longer be indulged with impunity; every sentence must be weighed, and every syllable examined; the iron hand of ministerial authority is endeavouring to repress, and were it possible, to exterminate every noblest of its feelings. Let it, however, be remembered by the zealous partizans of ministry, that if those who live under the influence of that Constitution which the records of antiquity attest to have been the pride of our ancestors, instead of walking like them with an erect and an undaunted step, must sneak, and crawl, and muffle up their mouths in silence and in slavery, that Constitution, instead of being the pride, will become the object of contempt and execration to their posterity. And indeed the world begins to suspect—somewhat late perhaps—that the present tender concern for the welfare of this Constitution is carried to a very unwarrantable excess; to use the language

language of an animated and eloquent writer*,
 “in the fashionable system of political botany,
 it is a sensitive plant, shrinking from the slightest
 breath of inquiry; and therefore strongly fenced
 round from too close an inspection with the
 thorns and briars of the law; while the Attorney
 General, like the angel of punishment at the gate
 of paradise, guards the entrance into this holy
 ground, and brandishes an *ex officio* information
 to strike terror into the heart of each bold
 intruder.”

I have already said, that one object which
 this Dialogue has in view, is to diffuse the know-
 ledge of an inherent right in the people to resist
 oppression; whatever force, however, the opinion
 of Sir William Jones might have in an Eastern
 court, it would have but little in the King's
 Bench or the Old Bailey; and if Mr. Fox,
 deprecating the accusation of pusillanimity in
 having recourse to authority for sanctioning this
 opposition, dare oppose his solitary†, but gigantic
 strength

* Thomas Cooper, late of Manchester; at present an emigrant
 in America.

† Justifying this doctrine of resistance, Mr. Fox exclaimed,
 “Was it necessary to urge any argument to support its truth?
 —had he any fear upon uttering this doctrine? Yes. One
 fear he had, which was that some persons might imagine he was
 too pusillanimous to maintain this doctrine without referring

strength to the destructive shock of ministerial vengeance, such as are of feeble mould might perish in the rash unequal contest. I shall therefore have recourse to an authority for the establishment of this momentous principle, more weighty and more valid in a British judicatory than that of Sir William Jones, the authority of Sir William Blackstone; a man of sound judgment, and certainly no enemy to subordination. His commentaries on the laws of England abound in sagacious reflection, and display profundity of knowledge; but I do not hesitate to assert, that they include an heterogeneous and discordant mass of liberality and bigotry—of independence and servility.

“Whenever,” says he*, “a question arises between the society at large and any magistrate vested with powers originally delegated by that society; it must be decided by the voice of the society itself; there is not upon earth any other tribunal to resort to.” This observation arises in his consideration of the principle on which proceeded the Revolution of 1688; the expulsion

to authority to maintain it. To avoid this, he would state it at once, that if there was no authority to support it, HE WOULD MAINTAIN IT BY HIMSELF.” Vide Morn. Chron. Dec. 4, 1795.

* B. 1. Ch. 3.

of

of James was the act of the nation, in consequence of his endeavour to subvert the Constitution and infringe on the inalienable liberties of the subject.

It should be remembered, however, that the Convention which pronounced the vacancy of the throne, urged three distinct reasons for their memorable decree; first, James endeavoured to subvert the Constitution by breaking the original contract between king and people; secondly, he violated the fundamental laws; and in the third place, he abdicated the government. Now, says Blackstone, “so far as this precedent leads, *and no farther*, we may lay down the *law* of redress against public oppression.” So that it requires this trinitarian conjunction of circumstances to *legalize* resistance on the part of the people; but should one or two of them alone occur, “in these, therefore, or other circumstances which a fertile imagination may furnish, since both law and history are silent, it becomes us to be silent too; leaving to future generations whenever necessity and the safety of the whole shall require it, THE EXERTION OF THOSE INHERENT, THOUGH LATENT, POWERS OF SOCIETY, WHICH NO CLIMATE, NO TIME, NO CONSTITUTION, CAN EVER DESTROY OR DIMINISH.†”

† Bl. Com. B. I. Ch. 7.

I could quote passage after passage, even from Blackstone, a late judge of his Majesty's Court of Common Pleas, to substantiate the right to resist the inroads of Despotism and Tyranny, from whatever quarter they may come; but it is unnecessary; "for it is found by experience," says he*, "that whenever the unconstitutional oppressions, even of the sovereign power, advance with gigantic strides and threaten desolation to a state, mankind will not be reasoned out of the feelings of humanity; nor will sacrifice their liberty by a scrupulous adherence to those political maxims, which were originally established to preserve it."

I am happy in being thus able to produce the authority of so eminent a legal character, because although the words which I have quoted from his commentaries were uttered with impunity by him—to an obscure and insulated individual they might have been attended with a prosecution. I may now, perhaps, indulge myself with the ideas of security, or if the Attorney General should produce an *ex officio* information, might exclaim with Macbeth to the ghost of Banquo

Thou can'st not say I did it; never shake
Thy gory locks at me—

* I cannot resist the temptation of referring my readers once more to B. I. Ch. 7.

c

I expect

I expect to hear it asserted that I am endeavouring to excite the people of this country to open and avowed rebellion; but in defending the *principle* of resistance, it is not a legitimate conclusion that I recommend the *practice*. From the bottom of my soul do I assert it to be my real and decided opinion, that arms should always be regarded as the reluctant and the last resource of an indignant people; and that resistance should slumber,—most profoundly slumber, except in cases of urgent, of extreme, of unequivocal necessity. For I am well aware of the horrors attendant on a civil commotion; I can feel them keenly, and would stamp that feeling, deeply and indelibly, in the bosom of every human being. I have not forgotten the foul and sanguinary proscriptions of a Robespierre, and the Ides of September still haunt my imagination. I would have it remembered, that in a state of revolution, or even of the slightest internal disturbance, every nation induces a real, and perhaps a permanent, evil for the attainment of a precarious and a distant good*; in such unsettled times, the peace of many a fire-side circle is invaded; the innocent and the guilty, the turbulent and the tranquil, may indiscriminately feel the lash of many a petty and ferocious tyrant.

* Most ardently do I hope that the late Revolution in Holland may give the lie to my assertion.

These

These are considerations, therefore, which should inculcate the importance of reciprocal forbearance, and recommend to mankind, the nurture of those mild and amiable affections, of that benevolence and that unbounded humanity which would stifle every struggling sentiment of malice and revenge—Revenge!

'Tis a word
Should be engraven on the new-fall'n snow,
Where the first beam may melt it from observance!

These are considerations too, which should more particularly influence the conduct of such as call themselves the friends to freedom; which should check every intemperate expression as well as action. Let them be firm, and let them be persevering; but let them learn to argue coolly and dispassionately; let them defy the most troublesome irritation of their enemies to discompose *their* moderation and tranquility; let them prove to the confusion of the whole world, that their principles do not lead to violence and disorder; let them endeavour, rather to conciliate their adversaries by the mildness of their deportment, the justice and generosity of their actions, than to terrify them and run the hazard of repelling their affections to a still greater distance, by intemperance and ferocity. Lastly, let them take peculiar precaution, that in building

ing a temple to the Genius of Liberty, they do not suffer the vail of it to be rent in twain, by that most destructive of all shocks, the shock of an internal contention. If notwithstanding what I have here urged in favor of forbearance, in favor of peace, and in favor of humanity, I am still to be pestered in common with every active friend to liberty, with the paltry and malevolent fictions of a set of noisy hirelings and contemptible pensioners on the bounty or extravagance of a contemptible administration; and if I am to be accused of an insidious attempt to excite insurrection, I shall say of every private man what Mr. Fox, in the debate already alluded to, said of a public one, "that he must not shrink in times of danger from strong expressions, because they may be misconstrued." Misconstruction is the employment of spies and of informers; such characters may excite our contempt, they may excite our pity; but never let them make the "firm nerves tremble" of one honest man.

Norwich, Jan. 1796.

PREFACE

To the Second Edition.

IT is evident from the disproportionate bulk of the notes to the text on which they comment, that the publication of the former, was perhaps an object more immediately in view than the publication of the latter. I do not hesitate to acknowledge that it actually was so; for it is hardly in the power of the press to give a more extended notoriety among the people of this country, to the following dialogue of Sir William Jones, than it has already received from the very memorable trial which the publication of it by the Dean of St. Asaph occasioned, at the Shrewsbury assizes, in the year 1784. The truth of the matter is, I considered this dialogue as compressing within its small compass, so much and such important matter; as illustrating with perspicuity, with simplicity and spirit, so many general principles of policy; as conveying so much particular information respecting the rights
and

and liberties which our own constitution acknowledges; and as affording such abundant scope for comment and historical elucidation; that no vehicle could be better, or indeed so well, adapted for the circulation of opinions and hypotheses on the great variety of political subjects which it embraces. I have taken advantage of this circumstance and digressed ad libitum.

The history of this little tract, "every sentence of which," said Mr. Erskine in his defence of it, "if the interpretation of words is to be settled, not according to fancy, but by the common rules of language, is to be found in the brightest pages of English literature, and in the most sacred volumes of English laws;" the history of this little tract is much too generally known to require any minute or particular narration in this place: It was originally printed and distributed gratis, by a "Society for Constitutional Information;" many loyalists of that day, like many loyalists, as they call themselves, of the present, reprobated the principles it contained, and dwelt with raptures on the savage luxury which they anticipated, of crushing those whose activity was conspicuous in the diffusion of them. In consequence of these aspersions, the Rev. William Davies Shipley, Dean of St. Asaph, one of the Flintshire Committee—a committee formed

formed for purposes of political information—prefixed to an edition of it, the following most manly and high spirited advertisement :

“ A Short defence hath been thought necessary against a violent and groundless attack upon the *Flintshire* Committee, for having testified their approbation of the following *Dialogue*, which hath been publickly branded with the most injurious epithets; and it is conceived, that the sure way to vindicate this little Tract from so unjust a character, will be as publickly to produce it. The Friends of the Revolution will instantly see, that it contains no principle which has not the support of the highest authority, as well as the clearest reason.

“ If the doctrines which it slightly touches, in a manner suited to the nature of the Dialogue, be “ seditious, treasonable, and diabolical,” Lord SOMERS was an incendiary, LOCKE a traitor, and the CONVENTION-PARLIAMENT a pandæmonium; but if those names are the glory and boast of England; and if that convention secured our liberty and happiness, then the doctrines in question are not only just and rational, but constitutional and salutary; and the reproachful epithets belong wholly to the system of those who so grossly misapplied them.”

This

This advertisement, it may well be supposed, did but little soften the rancour and asperity of such as had already defamed the dialogue; application was, therefore, made to the treasury, by means of the sheriff of the county, that the Dean might be prosecuted for the publication. BUT THE TREASURY DECLINED THE PROSECUTION. Indeed it would have been somewhat extraordinary if they had not, for the *author* of the tract was just appointed one of his majesty's judges in the court of Bengal. An obscure individual, however, stoutly resolving to put the Attorney General to blush for negligence or disaffection, and to outdo in loyalty the treasury itself, bore on his own brawny shoulders, the labour and disgrace of this outcast, this abandoned prosecution. After several tedious and expensive delays, the trial came on at Shrewsbury assizes, in August, 1784. The jury brought in their verdict GUILTY OF PUBLISHING ONLY; and Mr. Erskine merits the hearty thanks of every freeman, not only for his eloquent and spirited defence of the dialogue, but for his perseverance, that the verdict should be *literally* recorded, in opposition to the will of Mr. Justice Buller. In November of the same year, Mr. Erskine's eloquence was again employed in support of the motion for a new trial; after much argument, the Earl of Mansfield pronounced the judgement

ment of the court, "that the rule for a new trial must be discharged." The cause, however, is at length determined, and the defendant "finally and completely discharged from the prosecution, by a motion made by Mr. Erskine in arrest of judgement: the court unanimously declaring, that no libel was stated on the record." *

The right of juries, however, to give a verdict as well on the libellous tendency of a thing published, as on the fact of publication, is now unequivocally established by an act of parliament, passed in the year 1792, well known by the name of Mr. Fox's libel bill. That the lungs of Lord Thurlow and Lord Kenyon should have been employed to oppose it, is not wonderful; but the people at large have no small reason to rejoice, as well that the province of the judge is contracted, as that the province of the jury is dignified and extended.

Norwich, April, 1797.

* See Appendix to Stockdale's Trial.

THE
PRINCIPLES
OF
GOVERNMENT.

THE

PRINCIPLES

OF

OF

GOVERNMENT

THE

Principles of Government;

IN

A DIALOGUE

BETWEEN

A GENTLEMAN AND A FARMER.

F. WHY should humble men, like me, sign or set marks to petitions of this nature? It is better for us peasants to mind our husbandry, and leave what we cannot comprehend to the king and parliament. [NOTE A]

G. You can comprehend more than you imagine; and, as a *free member of a free state*, have higher things to mind than you may conceive.

F. If by *free*, you mean *out of prison*, I hope to continue so, as long as I can pay my rent to the squire's bailiff; but what is meant by a *free state*?

B 2

G. Tell

G. Tell me first what is meant by club in a village, of which I know you to be a member.

F. It is an assembly of men, who meet after work, every Saturday, to be merry and happy for a few hours in the week.

G. Have you no other object but mirth?

F. Yes; we have a box, into which we contribute equally from our monthly or weekly savings, and out of which any members of the club are to be relieved in sickness or poverty; for the parish officers are so cruel and insolent, that it were better to starve than apply to them for relief.

G. Did they, or the 'squire, or the parson, or all together, compel you to form this society?

F. O no—we could not be compelled; we formed it by our own choice.

G. You did right:—but have you not some head or president of your club?

F. The master for each night is chosen by the company present the week before. [NOTE B]

G. Does

G. Does he make laws to bind you, in case of ill temper or misbehaviour?

F. He make laws! He bind us! No: we have all agreed to a set of equal rules, which are signed by every new-comer, and were written in a strange hand by young *Spelman*, the lawyer's clerk, whose uncle is a member.

G. What should you do if any one member were to insist on becoming *perpetual* master, and on altering your rules at his arbitrary will and pleasure?

F. We should expel him.

G. What if he were to bring a serjeant's guard, when the militia are quartered in your neighbourhood, and insist upon your obeying him?

F. We should resist, if we could: if not, the society would be broken up.

G. Suppose that, with his serjeant's guard, he were to take the money out of the box, or out of your pockets?

F. Would not that be a robbery?

G. I am

G. I am seeking information from you. How should you act on such an occasion?

F. We should submit, perhaps, at the time; but should afterwards try to apprehend the robbers.

G. What if you could not apprehend them?

F. We might kill them, I should think; and if the king would not pardon us, God would.

G. How could you either apprehend them, or, if they resisted, kill them, without a sufficient force in your own hands?

F. O! we are all good players at fingle-stick, and each of us has a stout cudgel or quarter-staff in the corner of his room.

G. Suppose that a few of the club were to domineer over the rest, and insist upon making laws for them—

F. We must take the same course; except that it would be easier to restrain one man, than a number: but we should be the majority with justice on our side.

G. A word

G. A word or two on another head. Some of you, I presume, are no great accountants.

F. Few of us understand accounts; but we trust old *Lilly* the schoolmaster, whom we believe to be an honest man: and he keeps the key of our box.

G. If your money should in time amount to a large sum, it might not perhaps be safe to keep it at his house, or in any private house.

F. Where else should we keep it?

G. You might chuse to put it into the funds, or to lend it the 'squire, who has lost so much lately at *Newmarket*, taking his bond, or some of his fields, as your security for the payment with interest.

F. We must in that case, confide in young *Spelman*, who will soon set up for himself; and if a lawyer can be honest, will be an honest lawyer.

G. What power do you give to *Lilly*, or should you give to *Spelman*, in the case supposed?

C

F. No

F. No power. We should give them both a due allowance for their trouble, and should expect a faithful account of all they had done for us. [NOTE C]

G. Honest men may change their nature. What if both, or either of them, were to deceive you?

F. We should remove them, put our trust in better men, and try to repair our loss.

G. Did it never occur to you, that every state or nation was only a great club.

F. Nothing ever occurred to me on the subject; for I never thought about it.

G. Though you never thought before on the subject, yet you may be able to tell me, why you suppose men to have assembled, and to have formed *nations, communities, or states*, which all mean the same thing.

F. In order, I should imagine, to be as happy as they can while they live.

G. By *happy*, do you mean *merry* only?

F. To

F. To be as merry as they can without hurting themselves or their neighbours, but chiefly to secure themselves from danger, and to relieve their wants.

G. Do you believe that any king or emperor compelled them to associate?

F. How could one man compel a multitude? A king or an emperor, I presume, is not born with an hundred hands.

G. When a prince of the blood shall in any country be so distinguished by nature, I shall then, and then only, conceive him to be a greater man than you. [NOTE D] But might not an army, with a king or general at their head, compel them to assemble?

F. Yes: but the army must have been formed by their own choice. One man or a few, can never govern many without their consent.

G. Suppose, however, that a multitude of men, assembled in a town or city, were to chuse a king or governor, might they not give him power or authority?

F. To be sure; but they would never be so mad, I hope, as to give him a power of making their *laws*.

G. Who else should make them?

F. The *whole* nation or people.

G. What if they disagreed?

F. The opinion of the *greater number*, as in our village clubs, must be taken and prevail.

G. What could be done if the society were so large that all could not meet in the same place?

F. A greater number must chuse a less.

G. Who should be the chusers?

F. All who are not *upon the parish*. In our club, if a man asks relief of the overseer, he ceases to be one of us, because he must depend on the overseer. [NOTE E]

G. Could not a few men, one in seven for instance, chuse the assembly of law-makers, as well as a larger number?

F. As

F. As conveniently, perhaps; but I would not suffer any man to chuse another, who was to make laws, by which my money or my life might be taken from me.

G. Have you a *freehold* in any county of forty shillings a year?

F. I have nothing in the world but my cattle, implements of husbandry, and household goods, together with my farm, for which I pay a fixed rent to the 'squire.

G. Have you a vote then in any city or borough!

F. I have no vote at all; but am able by my honest labor to support my wife and four children; and whilst I act honestly, I may defy the laws.

G. Can you be ignorant, that the parliament, to which members are sent by this county, and by the next market town, have power to make new laws, by which you and your family may be stripped of your goods, thrown into prison, and even deprived of life?

F. A dreadful power! I never made enquiries, having business of my own, concerning the business

ness of parliament; but imagined, that the laws had been fixed for many hundred years.

G. The common laws to which you refer, are equal, just, and humane; but the king and parliament may alter them when they please.

F. The king ought therefore to be a good man, and the parliament to consist of men equally good.

G. The king alone can do no harm; but who must judge the goodness of parliament-men?

F. All those whose property, freedom and lives may be affected by their laws.

G. Yet six men in seven, who inhabit this kingdom, have, like you, no votes; and the petition which I desired you to sign, has nothing for its object, but the restoration of you all to the right of chusing those law-makers by whom your money or your lives may be taken from you. Attend, while I read it distinctly.

F. Give me your pen—I never wrote my name, ill as it may be written, with greater eagerness.

G. I applaud you, and trust, that your example

ample will be followed by millions.—Another word before we part. Recollect your opinion about your club in the village, and tell me what ought to be the consequence, if the king alone were to insist on making laws, or in altering them at his will and pleasure?

F. He too must be expelled.

G. Oh? but think of his standing army, and of the militia, which now are his in substance, though ours in form. [NOTE F]

F. If he were to employ that force against the nation, they would and ought to resist him, or the state would cease to be a state.

G. What if the great accountants and great lawyers, the *Lillys* and *Spelmans* of the nation, were to abuse their trust, and cruelly injure, instead of faithfully serving the public?

F. We must request the king to remove them, and make trial of others; but none should implicitly be trusted.

G. But what if a few great lords or wealthy men, were to keep the king himself in subjection, yet exert his force, lavish his treasure, and misuse
his

his name, so as to domineer over the people, and manage the parliament?

F. We must fight for the king and for ourselves.

G. You talk of fighting, as if you were speaking of some rustic engagement at a wake; but your quarter-staffs would avail you little against bayonets.

F. We might easily provide ourselves with better arms.

G. Not so easily; when the moment of resistance came, you would be deprived of all arms; and those who should furnish you with them, or exhort you to take them up, would be called traitors, and probably put to death.

F. We ought always, therefore, to be ready; and keep each of us a strong firelock in the corner of his bed-room.

G. That would be legal as well as rational. [NOTE G] Are you, my honest friend, provided with a musket?

F. I will

F. I will contribute no more to the club, and purchase a firelock with my savings.

G. It is not necessary—I have two and will make you a present of one, with complete accoutrements.

F. I accept it thankfully, and will converse with you at your leisure on other subjects of this kind.

G. In the mean while, spend an hour every morning for the next fortnight, in learning to prime and load expeditiously, and to fire and charge with bayonet firmly and regularly. I say, every *morning*; because if you exercise *too late in the evening*, you may fall into some of the legal snares which have been spread for you by those gentlemen, who would rather secure game for the table, than liberty for the nation. [NOTE H]

F. Some of my neighbours, who have served in the militia, will readily teach me; and perhaps the whole village may be persuaded to procure arms, and to learn their exercise.

G. It cannot be expected that villagers should purchase arms; but they might easily be supplied,

D

if

if the gentry of the nation would spare a little from their vices and luxury.

F. May they return to some sense of honor and virtue!

G. Farewell at present! and remember, "that a free state is only a more numerous and more powerful club, and that he only is a free man, who is member of such a state."

F. Good morning, sir! You have made me wiser and better than I was yesterday; and yet methinks, I had some knowledge in my own mind of this great subject, and have been a politician all my life without perceiving it.



Notes

AND

Historical Elucidations.



[NOTE A.] **I**T was the observation of that haughty and that high-toned prelate Horfley, that the people have nothing to do with the laws but to obey them; and I am sorry to acknowledge there are so many of the latter stupidly attached to the same opinion. Fortunately, however, it is a species of stupidity daily correcting itself; men begin to suspect there *may* be a great deal of pilfering in the conduct of governments, and that it is necessary to keep an eagle-eye on such as are concerned in them.

[NOTE B.] The analogy here instituted is so simple and so obvious, that I can scarcely be said to anticipate Sir William's illustration of it, in observing that the 'head or president of the club' is intended as typical of the monarch of a state.

The farmer observes that the master for each night is *chosen* by all the company present.

That the office of president, vested with authority, whether over a kingdom or a club, should be elective rather than hereditary, certainly seems on the first view most natural; it really is so, and in the early ages of society, whilst the bravest warrior was elected leader, the sagest and most prudent veteran was also promoted by election to the office of administering justice. History, however, informs us of the early degeneracy of elective into hereditary honours; and the latter have received the preference, as well from persons of disinterested character and sound judgment, as from such as had the inglorious object in view, exclusively of transmitting to their own posterity, the blushing honours of themselves and ancestors.

Let us confine our observations as hereditary succession respects the crown*. It is a delicate

* "A man is allowed sufficient freedom of thought, provided he knows how to choose his subject; you may criticise freely upon the Chinese constitution, and observe with as much severity as you please upon the absurd tricks and destructive bigotry of the Bonzees. But the scene is changed as you come homewards, and atheism or treason may be the name given in Britain to what would be reason and truth if asserted of China."

Mr. Burke's Vindication of Natural Society.

subject

subject to handle in these times ; like the electrical torpedo it is apt to shock the hand that touches it. But, fortunately, I am aware that intemperance and invective are always injurious to whatever cause they are engaged in.

The principle on which the preference has been given to an hereditary crown, is humane, rational, but I suspect delusive ; by limiting the legal possibility of possessing it, to certain individuals in succession, it destroys all hopes of attaining it in any other individual ; those sanguinary and ferocious contentions which an elective sceptre would invite, are at once evaded ; the intrigues of aspiring, and the revenge of disappointed ambition, are thus equally defeated. Such is the grand argument for hereditary succession, and we are referred to ancient Rome, to Poland, and to Germany, in melancholy attestation of the horrors attendant on elective monarchy. But on this subject, we are apt to draw an illegitimate conclusion from our premises ; it seems generally to be argued, that because an elective throne is the source of the most bloody and desolating wars, that an hereditary one is succeeded to with tranquillity and peace. To dispel this treacherous illusion, we need only turn to the index of whatever history may chance to be before us ; that of England, is one gloomy chronicle of crimes

crimes, committed for the attainment of this hereditary crown. In travelling back to the union of the Heptarchy in the person of king Egbert, we are obliged—probably from the novelty of hereditary succession—to acknowledge that for upwards of two centuries, the crown descended uninterruptedly, till the reign of Edmond Ironside; he, after various and bloody battles with Canute, was obliged to admit this active and ambitious Dane a participant of royalty, in consequence of the unblushing desertions of that triple traitor Edric*. On the death of Edmond (who was murdered about two months after the ratification of this treaty) Canute succeeded to the sole government, and drove the sons of his unfortunate antagonist into exile. Two sons of this prince, after his decease, had well nigh decided their respective right to this hereditary throne by an appeal to arms; it was only prevented by a fortunate interposition of the nobility, who agreed, that the one should enjoy all the provinces north of the Thames, and the other all such as were south of it. On the death of Hardicanute, the succession was restored to the Saxon line, in the person of Edward the Confessor with tolerable tran-

* Edric deserted to Canute; returned to the service of Edmond Ironside, and again betrayed him. His perfidy was afterwards punished by the Danish monarch with execution.

quillity; it should be remembered, however, that he was not the true heir to the crown. After a reign of five and twenty years, Edward died; the succession was again violated, and Harold stepped into the vacant throne. He was shortly afterwards slain in the field of battle by William of Normandy.

From this point of time, I can save myself the trouble of turning over the leaves of an English history, by copying a concentrated account of the disputes which this hereditary crown has occasioned, from a most excellent work, intitled "A Reply to Mr. Burke's Invektive against Mr. Cooper and Mr. Watt, in the House of Commons, on the 30th of April, 1792, by Thomas Cooper."

"The quarrels and disputes between William the Norman and Harold; between Henry I. and his brother Robert; between Stephen and Matilda; between Henry II. and his children; between Richard I. and prince John; between king John and the French prince Lewis; between the young king Henry III. and Lewis; between Richard II. and the Duke of Lancaster; between the Houses of York and Lancaster in the reigns of Henry VI. and Edward VI; between Edward V. and the Duke of Gloster; between Richard III. and the Earl of Richmond; between

between Henry VII. and Lambert Simnel; between the same monarch and Perkin Warbeck; between Mary and Lady Jane Grey; between James II. and Monmouth; between William III. George I. and II. and the family of James II. all arose from disputed claims to the monarchy of England, and are all referable to the quarrels of our princes among themselves. Such with us have been the peaceable effects of hereditary succession, so vaunted by its pensioned advocates! But the catalogue is not yet finished; for these are the disputes of royal contenders among themselves respecting the crown of England alone. During the reigns of William I. William Rufus, Stephen, Henry II. Richard I. John, Henry III. Edward I. II. and III. Richard II. Henry IV. V. VI. the blood and treasure of the people were wasted, and the nation engaged in almost perpetual warfare with France, on account of the attempts and pretensions of our kings, either to the Dukedom of Normandy or the French Monarchy: and to this very day, his most sacred majesty king George the third claims, by the Grace of God, to be king of Great Britain, *France*, and Ireland; defender of the faith and so forth! * * * * *

* * * * * †”

† See Cooper's Answer, &c. p. 41.

If a republican poet were to draw the abstract character of a king from a catalogue, thus exhibited, of massacres committed at their instigation, he would almost be induced to copy the outlines of his figure, from the image which the Chevalier Marino, in his *Sospetto d'Herode*, has drawn of Death; the master of a bloody group in hell, and almost out of breath with the fatigue of an incessant massacre :

“ And there as master of this murd’ring brood,
Swinging a huge sith, stands impartial Death,
With endlefs buisness, almost out of breath*.”

It may be urged, that if we must acknowledge hereditary monarchy not to be so peaceable in fact, as it may appear in theory, yet that an elective crown is attested by the voice of universal history to be attended with infinitely more frequent and sanguinary wars, than those already enumerated, and that of two evils, it is wise to choose the least. To this I retort a very forcible and conclusive observation, which I have met with in a political author whom I do not immediately recollect, “ make the prize less worth contending for and there will be less contention to obtain it.”

* A very fine specimen of this poem, translated by Richard Crashaw, is given in Headley’s *Collection of Ancient Poetry*.

I cannot say I anticipate with pleasure, the time when America shall give a proof that she can elect a president without contention and disturbance, because I cannot anticipate with pleasure, a termination to the life of George Washington; and it seems probable, that the United States will never suffer a successor to fill the office during the life of that great man. I felt a serious concern that Washington could not withstand the entreaties of his fellow-citizens to retain the presidency after the legal expiration of its term to an individual; but perhaps I feel a concern that Washington is not more than mortal! and who can wonder that such a man should be the object, almost of adoration, to such a people? Their peaceful election, however, of a vice-president, at a time when the number of votes for two contending candidates was almost equal, justifies an anticipation, that they will not disgrace the principle of elective honors on some future occasion.

Since the first edition of this pamphlet, president George Washington has formally announced, in an address to the United States, his deliberate resolution to retire from the administration, which he has so long and so respectably directed, of the executive government of America. His resignation has been accepted, and the tranquil election of a successor to the chair of presidency has alleviated

viated the anxieties and justified the most sanguine hopes of every friend to liberty; it was conducted without any disturbance, and affords a favourable presage of American prosperity.

If it is possible after an unremitted labour of five and forty years in the service of the states; after the exercise of various important functions, civil and military, directed with consummate wisdom and untainted purity; if it is possible, after such unequivocal evidence of patriotism and disinterested desire to diffuse happiness through the republic, that any thing should still farther endear the name of Washington to every American endowed with the common sensibilities of nature, the common feelings of man; it is the parental and affectionate solicitude for the future dignity and happiness of the states, displayed in his valedictory address. The sound and salutary advice which in this legacy to the people he has left them—may it sink deep into their hearts; may it be remembered in all their deliberations and all their conduct; may it correct every intemperate propensity, may it harmonise every rising animosity, and calm every unquiet spirit!

This great man has now withdrawn from the scene of action, in which he has been so long engaged, to seek among the shades of retirement,

that peace and repose which his encreasing age requires, and his honorable services have earned. Whithersoever he bends his steps, may his ways be ways of pleasantness, and all his paths be peace!

I cannot help mentioning in this place, that an anonymous writer of a very elaborate and a very eloquent critique on Mr. Burke's Two Letters on a Regicide Peace, (See Monthly Reviews for November and December, 1796) has drawn a sort of comparison between the characters of George Washington and William III. Notwithstanding the deep-toned and uncourteous denunciation of this critic, against "the petulance of modern scribblers, by whom the character of that great monarch has been so superficially judged and so presumptuously condemned," I feel compelled to enter a protest against the comparison. So far as an equality and perhaps similitude of *talents* between Washington and William is contended for, fitted alike for the council and the camp, but little objection will lie against it; the military talents of William are unimpeached, and it is acknowledged, that he was the very soul of that confederacy which humbled the pride and depressed the power of Louis XIV.—but as to the proportion of disinterested moderation and unshaken virtue which blends itself with the characters

racters of these two men—it is indeed unequal! William, it is true, in the enthusiasm of youth, while yet his integrity was uncontaminated, before his hopes of sovereignty had yet budded, felt all the love of liberty which can animate the soul of Washington; but William, prince of Orange, and William, king of England, were characters of very different complexion. However, as I shall enter more largely into this subject, and endeavour to form some estimate of William's claim to our gratitude and veneration in a subsequent note, (See NOTE F) I shall take leave of him for the present, but not without furnishing a substitute in the comparison, more worthy of the honor, and better qualified for the situation, **ANDREW DORIA.** The fickleness of the Genoese had subjected them for centuries to the alternate dominion of the emperors of Germany, the kings of France, and the dukes of Milan; in the early part of the sixth century, Andrew Doria, the ablest seaman of that age, burst the shackles with which France had then fettered his country, and in contempt of the alluring and propitious circumstances which conspired to facilitate an ascent to sovereignty, he assembled his fellow-citizens of Genoa, claimed no pre-eminence for his services, and devolved on them the task of framing a constitution. Doria lived to a venerable age, saw the republic of his own planting
 rise,

rife, and died full of honors, adored by the citizens whose freedom he had established.

It is impossible to conclude this note without observing that Thomas Paine, once the friend of his bosom, and the coadjutor in his labours for the establishment of American independence, has addressed a letter to George Washington, in which he accuses him of apostacy from his principles, of ingratitude to that country without whose assistance the trans-atlantic republic might not yet have existed, and of hypocrisy to the world. These are very heavy charges, nor are they conveyed in the most temperate and conciliating language: if the treaty which Mr. Jay secretly negotiated with England, was indeed so repugnant to the pre-existing treaty between America and France, as Thomas Paine represents, George Washington must have condescended to a duplicity of conduct, which his friends on this side the water but little suspected. Time may unfold more of Washington's views than we are yet acquainted with; he may have committed most egregious faults, and may on this occasion, perhaps, have been a wilful delinquent. Yet are we justified in asserting, that there are very few men, placed in the situation of Washington, who would, *on the whole*, have conducted themselves with so much moderation, and displayed such patriotism

patriotism as he has done. It is painful in the highest degree, to have one's confidence shaken in the integrity and uprightness of a man, towards whom we have been in the habit of fixing an eye, almost of adoration. Whatever may have been Washington's conduct, the inconsistency of Paine is decisive: in page 3 of his letter, he says "it was with pleasure that every sincere friend to America beheld as the natural effect of union, her rising prosperity; and it was with grief they saw that prosperity mixed, *even in the blossom*, with the germ of corruption. Monopolies of every kind marked your administration *almost in the moment of its commencement*. The lands obtained by the revolution were lavished upon partizans; the interest of the disbanded soldier was sold to the speculator; injustice was acted under the pretence of faith; and the chief of the army became the patron of the fraud. From such a *beginning*, what else could be expected then what has happened", &c. Again in page 6, he says, "Elevated to the chair of Presidency, you assumed the merit of every thing to yourself; and the natural ingratitude of your constitution began to appear. You *commenced* your president's career by encouraging and swallowing the grossest adulation, and you travelled America from one end to the other, to put yourself in the way of receiving it." Without making one single comment,

ment, I shall leave the reader to compare these passages with the following dedication of the first part of the Rights of Man, written long after the commencement of Mr. Washington's career of Presidency ;

" To George Washington, President of the
United States of America.

SIR,

I present you a small treatise in defence of those principles of freedom which your exemplary virtue hath eminently contributed to establish.—That the Rights of Man may become as universal as your benevolence can wish, and that you may enjoy the happiness of seeing the new world regenerate the old, is the prayer of

Sir,

Your most obliged and

obedient humble servant,

Thomas Paine."

[NOTE C] An allowance, and a liberal allowance too, should invariably be granted to every man in a public capacity, proportionate to the time and trouble which the duties of his office may require.

quire. In France and America, the members of the national council receive a salary for their labours; this was formerly the good practice in England; a contribution was levied on the counties by the king's writ, for the maintenance of their members; it was afterwards enforced by act of parliament in the reign of Richard II*. It must be recollected, however, that in those earlier periods, the same dignity was not attached to parliaments, which is in our latter times, and personal attendance, far from being considered as an honourable privilege, was regarded as a most troublesome and heavy obligation; the unbecoming zeal and anxiety which our contemporaries display to procure a seat in that assembly, was equalled by the unbecoming zeal and anxiety with which our ancestors endeavoured to evade it. The lesser barons considered themselves particularly indebted to James I. of Scotland, for an exemption from personal attendance, and for a permission in lieu of it, to elect representatives; they eagerly took advantage of the former, but the latter—of so little consequence was it esteemed!—lay dormant, except in one or two instances, during the space of one hundred and sixty years! James VI. first *obliged* them to send representatives regularly to parliament.

* 12 Richard II. ch. 12.

This disinclination, then, on all parties to attend as members of a national council, will readily account for the salary originally annexed to such attendance; the cause and the effect have ceased together. But I do not conceive it to be an uncandid suspicion, since daily and universal experience tells us it is founded on truth, that official characters, if not officially paid for their trouble, will take care to recompense themselves in some dirty underhand manner, and generally in a proportion, most unfeeling and exorbitant.

On the propriety and importance of responsibility, there cannot be two opinions with disinterested men; the greater part of such as are not so, nourish a very happy contempt for reason and for argument.

[NOTE D.] This reminds me of a sentiment which the kings of Arragon were condemned to hear. Arragon, besides her parliament, possessed an institution peculiar to herself; the Justiza was regarded as the protector of the people, and the controller of the prince: by his sole authority, the king's ministers might be excluded from the conduct of political affairs, and it was only to the Cortes, or general assembly of the states, that he was accountable for the execution of his trust. Through him, the Arragonefe pronounced their oath

oath of allegiance : " We," said Justiza to the king in the name of high-blooded independent barons, " We, who are each of us as good as you, and together, are more powerful than you, promise obedience to your government, if you maintain our liberties and our rights; but not otherwise."

As those persons into whose hands this pamphlet is most likely to fall, are probably for the most part, not much acquainted with the nature of this singular institution, I shall take the liberty of explaining its nature and utility somewhat more at large. The historians of Arragon assert the existence of their Cortes and Justiza to have been coeval with the constitution itself; it is probable, however, that the cities of Spain acquired their freedom and importance in the state, at about the same time that most other European cities obtained charters of community, from the jealousies which were entertained by monarchs of the power and encroachments of their imperious vassals. This was during the eleventh and twelfth centuries, when many of the greater barons who had expended immense sums in their expeditions to the Holy Land, were glad to imitate the example of their sovereigns and recruit their finances by the sale of enfranchisements. [See Rob. Charles. Vol. I. passim] The Cortes of Arragon was a
fort

fort of Parliament, and in many respects not unlike the parliament of Great Britain: in the former assembly, however, it required the assent of every member to pass a law. But the Justiza was an officer to which modern times produce no parallel. HE KEPT THE KING IN ORDER. That an officer, however, invested with such formidable authority should himself be restrained from trampling on the liberties of the subject, he was always appointed from among the commoners of the kingdom—from among the class of cavalleros; and this was the reason; by the laws of Arragon, the Ricoshombres or nobles, claimed exemption from capital punishment; but it was necessary for the preservation of their liberties, that the Justiza should be taught to regard the sword of justice as ready to revenge the slightest infringement of the people's freedom. Seventeen persons were by lot elected, at each meeting of the Cortes, who formed a court of inquisition on the conduct of the Justiza: himself, as well as every inferior officer who acted under his authority, was bound to answer at his peril, every allegation, by whatever person brought, of injustice or neglect of duty;—the members of the court passed sentence and might punish even unto death. It cannot, surely, surprise us, that with such an institution, the attachment of the Arragonese to their government should have dictated as a preamble to one
of

of their laws "that such was the barrenness of their country, and the poverty of the inhabitants, that if it were not on account of their liberties, by which they were distinguished from other nations, the people would abandon it, and go in quest of a settlement to some more fruitful region."

Thine freedom! thine the blessings pictured here,
Thine are those charms that dazzle and endear!

Such was the Cortes of Arragon: nor was that of Castile neglectful of the liberty of the people; aware that "all power is cumulative; that authority necessarily tends towards despotism; and that it is the friction it meets with in its progress, that alone prevents an accelerated movement;" they opposed to it this friction, and ensured the assent of the Castilian monarch to whatever regulations were deemed salutary to the kingdom, by refusing to grant money, till after all public business was concluded. [See Rob. Charles, Vol. I. Sect. iii. and Note xxxi.]

The defeat of the Holy Junta, in the year 1552—an association of the Castilian cities for the redress of grievances—virtually affected the abolition of their Cortes; from that period, the emperor Charles V. never summoned them but
when

when he wanted money, and never allowed them to enter into any enquiry injurious to his authority. In the year 1539, the ancient constitution of the Cortes was not only virtually, but formally and explicitly subverted: that assembly having shown a little impotent spirit, in murmuring at the exaction of Charles, he dismissed the nobles from it, and retained such members only as were completely at his own disposal. The nobility, in an effervescence of loyalty, had assisted Charles to defeat the Junta, and in order to depress the power of the commons, they chose to encrease that of the crown. Charles was a most sagacious monarch; he took advantage of their folly, and served the nobles as they had served the people; he expelled them from the Cortes, in 1539. This was a glorious atchievement in Charles, for in the period of their dignity and independence, he had frequently been disappointed of the supplies which his numerous armies demanded, by the jealousy which characterised the different Cortes of Valencia, Castille, and Arragon; dreadful and repeated mutiny of his troops for want of regular payments, was a formidable consequence. His Spanish subjects did not choose to bear expences arising from the intricate and extended politics which his Imperial crown created; nor to encourage the bloody operations which his ambition prompted, or the unqualified hatred which

which he bore against his rival—a rival, whom it is no compliment to assert, was infinitely his superior in every thing which is generous, affectionate, and kind; for Charles V. had not one particle of generosity, affection, or kindness in his composition—Francis I. king of France.

Such was the venerable assembly of the Cortes—such was this fortress of liberty—but now, its walls are broken, its ramparts are destroyed, and its strong towers are levelled with the dust! The Cortes for a long lapse of years, has never been assembled, but for the sake of form. At the accession of a monarch it is convoked, but the number of its members is dwindled away, their respectability decayed, their independence lost! they are now but the tools of a king and the playthings of a court.

I have not mentioned the “privilege of union,” as it was called, by which the Nobles, the Equestrian order, and the Magistrates of the cities of Arragon might *legally* demand in the name of their own body corporate, redress of grievances from the king; and on refusal might *legally* dethrone him; but it was a very curious combination, and I refer my reader for an explanation of its rights, for examples of the exercise of those rights, and for a total abolition of them by Peter IV.

IV. to Dr. Robertson's History of Charles V.
Vol. I. Note xxxii.

[NOTE E] It is evident, that Sir William Jones was an enemy to universal suffrage; this is a subject which has engaged very considerable attention, and some of the more cool and dispassionate friends to freedom have been inclined to acknowledge, if not of the practice, both the justice and policy of the principle. I apprehend that even Blackstone—who, though he could demean himself to cringe a little, had something in him like a love for liberty—even Blackstone was theoretically an advocate for the universality of suffrage.* “In a free state,” says he, “every man who is supposed a free agent, ought to be in some measure his own governor; and therefore a branch *at least* of the legislative power should reside in the *whole* body of the people.†” And elsewhere in the same chapter he says, that “on the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose

* It is a very common observation, and in my opinion a very foolish one, that a plan may be good in theory, but bad in practice; it appears to me, that nothing which is practically bad can be theoretically good, and that the test of the theory lies in the practice.

† B. I. ch. 2.

charge is committed the disposal of his property, his liberty, and his life; that the true reason of requiring any qualification with regard to property in voters, is to exclude such persons as are in so mean a situation, that they are esteemed to have no will of their own*; if these persons had votes, they would be tempted to dispose of them under some undue influence or other."

But the most distinguished, and the most deservedly distinguished champion for this doctrine, is† his Grace the Duke of Richmond, who conceives that POPULATION, with the most perfect exclusion of any superiority which PROPERTY might claim, should be the sole basis of representation. For various and energetic arguments in favour of annual parliaments and universal suffrage, I very willingly refer my readers to his Grace's Letter to Colonel Sharman; a composition, which I hope will long survive the memory of its author's dereliction. I have often thought that if since his birth, the Duke of Richmond's cheek was ever tinged with the suffusion of one

* This most execrable argument will shortly be considered.

† I believe I am justified in using the present tense; for when the subject was mentioned in the house of Lords two winters since, his Grace acknowledged that his opinions were not changed, but that he should oppose any scheme for reform—because that was not the proper time!

solitary blush, it must have been on that memorable day, when in a court of justice, he acknowledged himself the author of that letter*; then must he have felt this child of shame burn with an uncommon and alarming heat.

Although I do not intend to enter deeply into the subject, I cannot conclude this note, without commenting on an argument against universal suffrage, introduced by Mr. Belsham in his Memoirs of the Reign of George III. namely, that if population be the sole basis of representation; and we suppose in the first place, the house of commons to consist of six hundred members; and secondly, the population of the metropolis to be one sixth part of that of the whole kingdom, that London alone would, on this principle, send one hundred members to parliament!

This is certainly a very fair deduction, and if the advocates of universal suffrage acknowledge that such an effect will be pernicious, they must give up their system, or prove that it is counterbalanced by some preponderate advantage; for in an investigation of this practical importance, it is highly incumbent on us to see the complete

* This acknowledgement was wrung from him at the Old Bailey, on Horne Tooke's trial for high treason.

and utmost tendency of our principles, and to trace them through their most distant and most delicate ramifications; we must not be negligent of remote and even of contingent consequences, for the sake of supporting a popular or a darling theory.

This consequence, obvious as it undoubtedly is, having never before occurred, at first appeared so forcible, the representation of the metropolis so vastly disproportionate, that for a moment I was completely staggered; but a little reflection taught that this was no very formidable antagonist to encounter, and that in reality there would be no disproportion at all; the disproportion would be, not between the representation, but the things represented: between the number of inhabitants which two cities may contain, and not between the number of members they may send to parliament: in fact we are annihilating a deformity, and not creating one; at first we are astonished at the apparent undue influence which London would have with her hundred members; but if her inhabitants were dispersed in an hundred different places, and each place were to send one, the difficulty would not strike us with half the force—it would absolutely vanish; but does locality alter the nature of a principle? Why should not these inhabitants exercise the same right when col-

lected in the centre, which they would do when dispersed over the periphery of a circle?

But even this *appearance* of disproportion will be considerably diminished, if we consider a circumstance of which Mr. Belsham forgot to remind us; namely, that the number of members would be materially increased, which every other large town and city in the kingdom would send to parliament, and in an exact *ratio* to the number of its inhabitants.

As to the objection that paupers pay no taxes, have no property*, and consequently have no right to legislate concerning the property of others, it is false and unfeeling; it is false, because EVERY MAN'S LABOR IS HIS PROPERTY; and labor, says a great character, is the wealth of nations. For every meal he eats, for every coat he wears, for every coal, for every candle that he burns, this pauper, however, pays a tax, and helps to feed that mighty monster of rapacity, the Exchequer. Respecting the dependance, or the *want of will*, as Blackstone calls it, which is sup-

* Blackstone acknowledges, that members of parliament are "delegates, to whose charge is committed the disposal of" a man's "property, his liberty, and his life." The two latter, however, are considered as "trifles light as air," when balanced against property!

posed to be annexed to poverty, and which is urged as a reason both by him and Sir William Jones, for the exclusion of such as are depressed with it, I feel no hesitation in asserting that there is infinitely more dependance, more servility, more bribery, and infinitely less excuse for any one of them, among what are called the higher, than among the lower orders of society. Few members of the house of Commons will have the hardiness and effrontery to deny this assertion. As to bribery among electors, universal suffrage must give it a death-blow; no purse could possibly support it.

The objection is unfeeling, because the less a man possesses, the more does that little require extraneous protection. Wealth can protect itself; the limbs beneath a garb of fluttering cobweb rags, feel alone the rage and wantonness of the winds. Property will always have influence enough; poverty always too little. Why poison the arrow which already wounds?

Though an advocate for the universality of suffrage, I feel the force of a political aphorism, which Mr. Hume has pronounced in his "Idea of a perfect Commonwealth," respecting the total inadequacy of a coal-heaver or a carman to form an estimate of the political merits of two con-
tending

tending candidates, or to decide on the various qualifications and very extensive knowledge, necessary for the performance of senatorial functions. That plan, then of representation, seems to be good one, which like the American, rises in pyramidical proportion; let the bulk of the people, rather than nominate in person, annually choose intermediate electors, for the annual nomination of the supreme council of the kingdom. I conclude this note with the aphorism of Mr. Hume. "The lower sort of people and small proprietors are good judges enough of one not very distant from them in rank or situation; and therefore in their parochial meeting, will probably choose the best, or nearly the best representative; but they are wholly unfit for county-meetings, and for electing into the higher offices of the republic. Their ignorance gives the grandees an opportunity of deceiving them."

On the necessity of, and plan for parliamentary reform, I refer my readers to a pamphlet, by George Philips, of Manchester, where he will find the subject treated with ingenuity and argument.

[NOTE F] In monarchies, a standing army is considered essential to the security of the prince*.

prince*. FEAR, then, is the parent of them; and like an indulgent parent, FEAR supports him. Nothing, however, but a consciousness of oppressive and despotic measures can or ought to excite fear; the conclusion, therefore, is easily drawn.

We do not observe this love of military force in the breast of Washington; that great unrivalled man feels, that so far from being dreaded by the people of America, he is beloved, he is adored by them! In his last affectionate farewell, he has warned them to shun these engines of destruction, these frightful, formidable play-things of despotic princes. He recommends an indissoluble amity and union among the States, *because* "hence they will avoid the necessity of those overgrown military establishments, which under any form of government, are inauspicious to li-

* Standing armies, are in this country almost as old as the monarchy itself; long before the Norman conquest, our royal ancestors of the Saxon line are said to have kept in pay a regular body of troops, collected from their Danish subjects. This, however, must of course have been subsequent to the reign of Alfred; for those troublesome invaders were never subdued by any of his predecessors. Alfred conquered them completely, and those who remained within the kingdom, were indebted to the policy and humanity of this great character, for admission to the full enjoyment of the rights and liberties of his own subjects. See Millar, on the English Government, B. I. ch. 9.

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berty, and which are to be regarded as peculiarly hostile to republican liberty."

Standing armies have at different times, been as formidable and destructive to the prince, as they have been to the people. Indeed any very violent and outrageous attempt on the life of liberty, is fortunately attended with considerable danger, as well to the assassin as the victim: the same prætorian bands who elected a Roman emperor, frequently dethroned and murdered him; the Janizaries of Constantinople, the pride and support of the Ottoman armies, formed the only check upon the despotism of the Turkish sultans. The history of England too, will farther corroborate the assertion, and enforce the warning. The monarch is in this country considered the generalissimo of all the forces within the kingdom; and formerly all lands were subject to a tax for erecting castles wherever he thought proper; it was part of the *trinoda necessitas* from which no individual could claim exemption; and such good use was made of this power, that in the reign of Henry the Second, upwards of eleven hundred castles were subsisting in this country*. The first consequence was, that every baron had his castle; the second, that every king was afraid of his barons. John

* Blackstone, B. I. ch. 7.

and

and his son Henry the Third, together with some others, had good reason to lament that their royal ancestors, did not rather amuse themselves with building castles in the air, than in erecting them on the more solid and durable foundation of *terra firma*. The *Magna Carta*, as it is significantly denominated, and the *Carta de Foresta*, were obtained sword in hand from the former, on the plains of Runnemede, and received in parliament, a reluctant sanction from the latter*. The first standing

* Thus do short-sighted people frequently outwit themselves, and injure the cause they are endeavouring to serve: thus did Edward the First, by a proud and ambitious statute, (*Quia emptores*, 18 Ed. I. ch. 1.) which, it was intended, should preserve both to the crown and barons their feudal rights for ever, introduce the third estate or commons, into parliament. For at that period of English history, the king's tenants *in capite* had alone seats in the National Council: this act, therefore, which restrained the creation of new lordships, operated, when the king's tenant divided his estate into small baronies, to increase the number of these tenants *in capite*; for every purchaser must hold immediately of the crown, and of course had a right to sit in the national council. In process of time they became so numerous, as to be under the necessity of sending representatives; and hence the probable origin of that system.

In a latter period of English history, we find our monarchs voluntarily increasing the power and respectability of the commons, as promoting the extension of the royal prerogative: and such was undoubtedly the immediate effect of this policy—as to its remoter consequences, luckily they never thought of them. By improvements in agriculture, trade, manufactures, &c. many persons

standing army, which Europe ever saw (if we except the few mercenary troops already mentioned, under our Saxon monarchs) was established by Charles VII. of France, in the year

1445,

persons emerged from the lower circles of society, and in the acquisition of a little wealth, acquired ideas of independance to which they had previously been strangers. It was the common wish then of the king and of the people, to humble the pride, and chastize the insolence, of the aristocracy or landed interest of the country ; thus were the crown and the commons united in the pursuit of one and the same object. The king then, by adding weight to the house of commons, and increasing the number of its members from among that class of the community who were leagued with himself in an attempt to weaken the aristocracy, obtained a very important accession of prerogative. In consequence of this, a number of small towns were incorporated, by some of our most arbitrary monarchs, and receiving the privilege of royal boroughs, sent burgesses to parliament ; and the poorer the boroughs, the more likely were they to become subservient to the will of their master. Henry the Eighth gave to twelve counties, and to the same number of boroughs in Wales, the right of sending each a representative to parliament, Edward the Sixth created thirteen boroughs, and restored ten to the privileges which, from long disuetude, they had forfeited. Mary created ten ; Elizabeth twenty-four. Others might be mentioned. See Millar, on the English Government, B. II. ch. ix. The same policy was observed in France ; Louis le Gros, in the early part of the twelfth century, was the first who endeavoured to counterbalance the formidable power of his vassals, by conferring important privileges on the towns within his own domain. Still farther to depress the aristocracy, Philip the Fair, in a subsequent period, introduced the deputies of free towns into the States General of the nation. By this time, the

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1445. The death of that vigorous and high spirited monarch Henry V. and the long minority which succeeded, afforded the French king an opportunity of driving the English from their possessions in his territories. The reputation, which Charles had acquired from his successes, together with some well-timed terrors circulated of an English invasion, seduced the people to suffer an army of nine thousand cavalry, and sixteen thousand infantry, to bow during the time of peace, at the command of the monarch! the consequence was, that as opportunities occurred, other princes followed the example, and in course

cities and towns of other European states, from similar reasons, had acquired, not only personal enfranchisement and municipal jurisdiction, but political importance as members of their respective constitutions. Italy set the example, France, Spain, Germany and England followed. But the most fatal error in policy for the depression of imperious barons, fatal both to the people and the monarch, occurred in Germany. The emperors, feeling their inequality in an open contest, endeavoured to undermine the power which they dared not otherwise attack, by a lavish and inconsiderate accumulation of honours on the clergy! the consequence was, that the papal authority rose with irresistible rapidity, and claimed the proud attributes of infallibility and omnipotence. Till this imperial blunder, the popes had been indebted to the emperors for all their dignity and importance, but Gregory the Seventh, daring and sagacious, shook off the shackles, and brought his vanquished antagonist, Henry the Fourth, a bare-footed suppliant to the gate of his castle! Rob. Charles Vol. I. Sect. iii.

of time, the royal prerogative, which was once imprisoned within the cage of feudal aristocracy, now escaped from its confinement and shadowed the face of Europe with its wings. [See Robertson's Charles Vol. I.] For one of the very rare instances in which a standing military force has, in some degree, cancelled the multifold objections which lie against it, by subservience in time of peace as well as war to public utility, we are indebted to a man, whose indefatigable exertions for the introduction of comfort and easy discipline in this department; whose care and humanity in the plentiful provision of food and instruction for the poor; and whose gratuitous labours for the introduction of œconomy and comfort into every meanest hovel, have united the voice of thousands and ten thousands in unaffected accents of gratitude and benediction, BENJAMIN, COUNT RUMFORD. This man—he wants no epithet—is in the service of his electoral highness the duke of Bavaria; but the measures which he adopted in order to render the situation of the soldier happy; and that of the army, to use his own words, so that “it should do the *least possible harm* to the population, morals, manufactures and agriculture of the country:” together with those, which he adopted, in order to encourage as much as possible, the social communication of the citizens with the soldiery; these measures form so interesting a part
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of his first essay, that I forbear to anticipate the pleasure which my readers may receive from the perusal of it, by any meagre delineation. Respecting the encouragement of intercourse, he says, "this measure might not be advisable in a despotic or odious government; for where the authority of the sovereign must be supported by the terror of arms, all habits of social intercourse and friendship between the soldiers and the subjects must be dangerous; but in all well-regulated governments, such friendly intercourses is attended with many advantages." How far the barracks which infest and overawe the people of this kingdom, are favorable to that liberty which friendly intercourse promotes, I leave my readers to learn from a late justice of the court of Common Pleas, Blackstone, B. I. ch. 13. He speaks in the various parts of his commentaries, with no little acrimony on the subject of standing armies: but so much has been said respecting the danger and despotic tendency of them, by this, and other most eloquent and able writers: and so little has ever been said in favor of them, that it would be superfluous to swell this note with any high-toned philippic on the subject, or to enter into a regular history either of them, their causes, or their consequences. It is very well known that the monarchs of this country have had frequent quarrels about them with the commons, and on
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some occasions, these latter have behaved with a spirit highly becoming and worthy imitation. In the reign of Charles II. they voted "that the continuance of any standing forces in this kingdom, other than the militia, was illegal, and a grievance and vexation to the people." James II. notwithstanding this hint, had the impudence to tell one of *his* parliaments*—to use a common and a very appropriate phraseology—that the militia was perfectly useless; they replied, if that was the case, they would order a bill to remedy the evil, and endeavour to make it useful, which they actually did. James was quite satisfied with this specimen of their spirit, and never called another parliament during the three subsequent years of his reign; but before the expiration of it, the matchless effrontery of this tyrant prompted him to increase his army to twenty thousand men.

Glorious William—the memory of whose humanity still lives in the vale of Glencoe†—frequently

* This parliament was summoned in 1685.

† Never has an instance occurred, during the progress of the French revolution, which can exceed, in cool, deliberate, and methodical atrocity, the massacre at Glencoe. William, on this occasion, acted much like Elizabeth, respecting the queen of Scots. The princess, however, in order to give her story the semblance of truth, actually suffered Davison to be imprisoned, till he had paid the fine of ten thousand pounds, inflicted on him,
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quently disputed with the commons on the subject of his standing army; he carried the jest still farther than his predecessors, by an intermixture of foreigners, with the native troops; Dutch, French, and Scotch, inlisted under the motley banners of this sullen and ambitious monarch.

by the star-chamber; William's myrmidons (except the Master of Stair, who, on the outcry which echoed through the whole kingdom on this occasion, was dismissed from his office of Secretary for Scotland, but escaped in every other respect, with perfect impunity)—William's myrmidons, so far from being punished, were preferred in the service. Even Breadalbane, who was committed to Edinburgh castle for high treason by commissioners, who were appointed to enquire into the affair, received his pardon! After such facts, I cannot believe him to have been ignorant of the slaughter he was committing; nor can the solemn exculpation of a Scottish parliament, which the king had bribed and flattered with the promise of some national indulgences, alter my opinion on the subject; his subsequent conduct was too flagrant and infamous. William pretended that he had signed this order, (which enjoined the troops to take no prisoners, that the scene of slaughter might be rendered more terrible) amidst a parcel of other papers, without knowing the purport of it! nothing but the act can exceed the shamefulnefs of the excuse. But in contempt of his excuse, the massacre at Glencoe has blasted the name of William, and consigned it to universal and everlasting reprehension.

For the particulars which I have stated, and an affecting account of the whole transaction, See Smollet's Continuation of Hume, Vol. I. ch. 3. §. xx, xxi. and ch. 5. §. viii.

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The reign and character of William as little merit the appellation of *Glorious*, as perhaps the reign and character of any prince who ever sat upon the throne of Britain. Even his acquisition of the monarchical dignity which he enjoyed, did not entirely escape suspicion of illegality; this dignity was delegated to him, by a convention formed of all the members who had sitted in the house of commons, during any parliament of Charles II. and to these were added the Mayor, Aldermen, and fifty of the Common-council-men of the city of London. They met at William's invitation, and unanimously agreed to place the diadem on his brow. But whence did this convention derive authority to elevate the Prince of Orange to the throne? Who invested them with the right to alter the established lineal succession of the crown? The people and the parliament (in which the people are supposed to be represented) are the only depositories of that important right. Parliament, we know, is composed of King, Lords, and Commons; we also know that it is incomplete without the assemblage of the three. On the abdication of the throne, therefore, by James, parliament became imperfect; it follows from this circumstance of its imperfection, that no power except that of the great body of the people had a right to alter the constitution, either by setting aside the established lineal succession to the

the crown, or by any other means whatever. As there was no constitutional parliament, therefore, at that time existing in the kingdom, any convention for electing a monarch, but a convention of the people, was absolutely illegal and void of all constitutional authority. (See Smollet's Continuation of Hume, Vol. I. ch. i. § 3. note*) This convention settled the succession of the crown; William very shortly afterwards converted it into a parliament! Thus they played into each other's hands; William first called, and gave what sanction he could to the convention; they in return for the compliment, invested him with the robes of royalty, and—as well as they could too—sanctioned the investiture. But William was not satisfied, he thought the sanction was equivocal; so in order to give it stability, in order to give it a full unquestionable effect—he made parliament-men of all the members of the convention! This reminds me of an anecdote told of Don Alonzo Henry, founder of the Portuguese monarchy: in the year 1139, the Moors of Spain and Barbary united their forces to recover the dominion which had been wrested from them by his father, Count Henry; after a severe contest, Don Alonzo, on the plains of Ourique gained a complete victory over an army of four hundred thousand men; his soldiers flushed

with conquest, and enraptured with the valourous achievements of their leader, proclaimed him king of Portugal on the field of battle; and he in return, resolutely determined not to be outdone in generosity—conferred the rank of nobility on his whole army!

But even allowing the legality of William's accession; giving him credit for all the heroism and magnanimity which he displayed in triumphing by the distresses of a feeble, of a fallen enemy; of an unhappy monarch, already hunted out of the kingdom by his subjects;—of a father in law! allowing his claim to GLORY in the gallant and bloodless acquisition of his sceptre, I question if an impartial history of his reign would not shade the lustre of this favourite gem. William had scarcely breathed from his toils, had scarcely warmed the seat he sat on, before he quarrelled with parliament, truly, because they would not blend his private establishment with the public revenue of the kingdom! because they chose to grant this latter from year to year, for the purpose of keeping him under tolerable control! because they chose to have the disbursement of the public money under their own immediate inspection!—William did not like this curb. Nor was the Scottish parliament much more tractable; William

ham had presumed to appoint the Scotch judges by virtue of his own prerogative; the parliament stoutly asserted their right to the appointment, and would not suffer the judges whom he had nominated to open their commissions; they considered this act of authority as an open and impudent violation of their rights. But as flagrant and unblushing an attempt at the exercise of absolute and unqualified tyranny as the records of our history afford, was dared by William in a subsequent period of his reign: In the year 1692, the influence of the court was become so notorious, that a member of the house of commons, Sir Edward Hufsey, brought in a bill for the free and impartial proceedings in parliament; it passed the lower house, and was rejected in the upper by a majority of two voices. The next year it was revived; *it passed both houses*, and William, the asserter of our liberties, the firm undaunted founder of our rights—Glorious William REFUSED HIS ASSENT! refused his assent to a bill for free and impartial proceedings in parliament! Is it necessary to illustrate the character of this hero still farther? Let Dr. Smollet speak: “William was a fatalist in religion, indefatigable in war, enterprising in politics, dead to all the warm and generous emotions of the human heart, a cold relation, an indifferent husband, a dis-

greeable man, an ungracious prince, and an imperious sovereign." (See Vol. I. ch. vi. at the conclusion)

I have already said that William fought a number of battles with his parliaments about standing armies. In the year 1698, one of them was so exasperated at his impudence in maintaining a greater number of troops than was allowed him, that they refused the common compliment of an address in return for his speech at the opening session; they brought in a bill for the exclusion of foreigners from service in England, and William was actually obliged to disband his medley regiments of Dutch and French. But as to standing armies, it would be tedious to trace the ebb and flow of this military tide; I shall therefore conclude this long note—lengthened by a digression rather irrelevant, perhaps, concerning the character of William, which has been adorned by writers and by orators with much more panegyric than it merits—I shall conclude this long note, without adding any farther observations on the subject.*

[NOTE E.]

* For an accurate history of standing armies in this country, and some valuable reflections on the chill and blighting influence which they extend over agriculture, manufactures, commerce, population,

[NOTE E.] The right of *having* arms is recognised in a statute of William and Mary. I. W. and M. II. ch. 2. The right of *using* them is, indeed, prohibited by that thrice holy court, the court of justiciary at Edinburgh; who sentenced on Feb. 5, 1796, John O'Neal to suffer death for firing on, and killing one of, a party of peace officers, who were peaceably breaking open his house for the purpose of impressing him into his majesty's most peaceable service.

It is impossible not to mention, that Lieutenant General Lake has lately made a most daring and illegal attempt to disarm the King's Subjects throughout the province of Ulster: every man must reprobate a measure which consigns to the fury of a licentious army, a whole province of people, unheard in any court of judicature, civil or even military. What may be the consequence of this outrageous and unblushing violation of the constitution, heaven only knows! The exigences of the times are now become a pretext for the most odious and arbitrary proceedings. One would have thought America had afforded

population, virtue, morality, and whatever else is lovely and desirable. See "Cooper's reply to Burke's invective, &c." a work to which I have before referred; it is the production of a great man, and not unworthy the talents of its author.

too recent an example of the powers which a goaded and indignant people *can* exert, to sanction a system of insult and irritation. The eloquent and manly speech which Mr. Grattan made, in the House of Commons, March 18, 1797, in defence of the freedom of his countrymen, will be remembered by every Irishman, in whose breast glows a single spark of liberty: I must indulge myself the pleasure of extracting the rich enthusiastic paragraph which follows.—[See Morning Chronicle for March 27th, 1797.]

“No measure such as this had been tried in these countries since the unhappy times of the Tudors and the Stuarts, who for measures such as this had been driven from the throne. What was the order? It was an order to take by force, from the King’s subjects throughout the province of Ulster, those arms which the law gave to every man to defend his life and property; it was to strip the fairest and richest portion of the land by the hand of power, against law, and in violation of the constitution! If the measure be suffered in one province, what remains to prevent it from being carried against the other? But who were the agents of power in this arbitrary act?—the military! The orders of administration were to be enforced by the bayonet, and the subject had the alternative given him,

to submit to lawless robbery or die by a military execution! He had heard of acts of power under arbitrary princes, but he had known none in the history of England which came up to this in enormity. Ship-money was an illegal imposition, but it was levied under a colourable pretext. Hampden, who resisted it, was he seized by a military guard, and stripped of his property against his will? No! Hampden, if he suffered, suffered like a free subject; his question was decided in a court of law, not at the point of the bayonet. What was the Star-Chamber? In that arbitrary court Mr. Pynne was fined 10,000*l.* but this had still the colour of a legal process; the person of the subject was not violated by the military instruments of the despot. The law was dispensed with, and the constitution was violated, but the decent forms of law and of constitution were still held up between the master and the slave; nor have they in the worst of times and under the worst of monarchs been neglected, until, at the present disastrous moment, law, constitution, substance, form, and spirit, all are swept away in a common ruin before an overwhelming despotism. What was this order? It was a command to a military officer to enter the house of the king's subjects, and deprive them of their arms by force, and on resistance, to inflict military punishment! He hesitated not to say, that
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the officer who enforced this order was guilty of robbery; if he killed any in the execution of the order, he committed murder; and if the order was carried into a general execution, it was high treason; a levying war against the King! If the Government of Ireland can issue such an order and execute it, the Government of Ireland is a despotism! If the house sit still and with folded arms see an English Minister carry it into execution, the House is not the Representation of the Irish nation! they are voluntary slaves, and not an independent Legislature! For himself he would not consent to see the North trampled on. He did not defend their excesses, for excesses they had been guilty of, but those excesses he could not believe were so numerous as had been stated, or so enormous as to justify a declaration of military law against them. ”

[NOTE H.] One of the concurrent reasons for the original enactment, was, and for the preservation of game laws, now is, TO PREVENT POPULAR INSURRECTIONS AND RESISTANCE TO THE GOVERNMENT BY DISARMING THE BULK OF THE PEOPLE! “this is a reason,” says Blackstone, (B. II. ch. 27) “oftener meant than avowed by the makers of forest or game laws.”

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This reason has at least the merit of ingenuity, and will at once account for the foul and ferocious catalogue of punishments annexed to this sanguinary code in many European countries. It is related of a peasant in France, that being accused of having killed a wild boar, he pleaded in his defence—that he mistook it for a man! This country is not behind hand in her regulations respecting game. We meet with nothing sanguinary, however, in the system, till after the Norman conquest. It was expressly enacted in the laws of Canute and of Edward the Confessor, that every freeholder might sport on his own territories, provided he abstained from the royal forests, and the penalty of an infringement, even on them, was but a pecuniary forfeiture*. William, however, entered England as a conqueror, it was therefore good policy on his part to disarm his vanquished subjects; and in order to extend the influence of this policy more widely, he depopulated vast tracts of country and converted them into Forests. DEATH was the penalty annexed to the *crime* of killing any beast of chase within these royal domains; this penalty was abolished by the carta de foresta, which was wrung from the reluctant John, as were the penalties of castration, loss of eyes, and cutting off the hands and feet of such as kil-

* Bl. B. II. ch. 27.

led the royal deer, from Richard I. But to this day no man has a *legal* right to kill game, but he who has a chace or free-warren by grant from the crown, or by prescription, which supposes one †. And although the forests laws have fallen into disuse since the revolution, there are no less than four courts AT PRESENT extant within this kingdom, for the punishment of injuries done to the king's venison,

Which proves—though scarce believed by one in ten,
That kings have appetites like common men.

These courts are, the court of Attachments—of Regard—of Sweinmote—and the court of Justice seat*.

I shall conclude these long and, perhaps, heavy notes with the following quotation from Sir William Blackstone. “ Though the forest laws are now mitigated, and by degrees grown entirely obsolete, yet from this root has sprung a bastard slip,

† I do not think it worth my while to enter minutely into the subject of forest laws. If the reader should, he may consult Blackstone's Commentaries, B. II. ch. 3. and B. IV. ch. 13. §. 9, and Millar's Historical View of the English Government, B. II. ch. 1.

* For the particular jurisdiction of these courts. See Bl. B. III. ch. 9.

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known by the name of the GAME LAW, now arrived to, and wantoning in its highest vigor; both founded upon the same unreasonable notions of permanent property in wild creatures; and both productive of the same tyranny to the commons; but with this difference, that the forest laws established only one mighty hunter throughout the land, the game laws have raised a little Nimrod in every manor. And in one respect the ancient law was much less unreasonable than the modern; for the king's grantee of a chace or free-warren might kill game in every part of his franchise; but now, though a free-holder of less than 100l. a year is forbidden to kill a partridge upon his own estates, yet nobody else (not even the lord of the manor, unless he hath a grant of free-warren) can do it without committing a trespass, and subjecting himself to an action†."

† Bl. B. IV. ch. 33. II. §. 2.

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